

TRW Comp

31252

86-01

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES  
9 ENVIRONMENTAL PROTECTION AGENCY  
10 REGION IX

11 In The Matter Of: )

12 TRW, INC., )

13 Respondent )

ORDER

86-01

14 PROCEEDING UNDER SECTION 106(a) )  
15 OF THE COMPREHENSIVE ENVIRONMENTAL )  
16 RESPONSE, COMPENSATION AND LIABILITY )  
17 ACT OF 1980 (42 U.S.C. 9606(a)) )

18 The following Order is issued on this date to TRW, Inc.  
19 ("Respondent") pursuant to Section 106(a) of the Comprehensive  
20 Environmental Response, Compensation and Liability Act of 1980  
21 ("CERCLA"), 42 U.S.C. 9606(a), by authority delegated to the  
22 undersigned by the Administrator of the United States Environmental  
23 Protection Agency ("EPA"). Notice of the issuance of this Order  
24 has been given to the State of California.

25 The Director, Toxics and Waste Management Division, EPA  
26 Region IX has determined that there may be an imminent and  
27 substantial endangerment to the public health and welfare and  
28 to the environment because of an actual or threatened release

1 of hazardous substances from 193 cylinders (the "facility") owned  
2 by TRW, Inc. The drums are currently located at the Crescent  
3 Warehouse Co., Ltd., 111 East 22 Street, San Pedro, California  
4 90731. TRW, Inc. is the generator of the hazardous substances  
5 and owner of the cylinders which are the subject of this Order.

6 This Order directs TRW, Inc. to undertake actions to protect  
7 the public and the environment from this endangerment.

8 FINDINGS OF FACT

9 Background

10 1. TRW, Incorporated (Defense and Space Systems Group)  
11 owns and operates a plant located at One Space Park, Redondo  
12 Beach, California.

13 2. On August 18, 1980, Respondent notified EPA pursuant to  
14 Section 3010 of the Resource Conservation and Recovery Act, 42  
15 U.S.C. 6930 et seq., that it generates various hazardous wastes  
16 at the plant. The hazardous wastes generated by Respondent at  
17 the plant include both process waste streams, as defined by  
18 Title 40 C.F.R. Section 261.31, and discarded commercial chemical  
19 products, as defined by Title 40 C.F.R. Section 261.33.

20 3. EPA has reason to believe that the Respondent uses  
21 various compressed gases at the plant. The compressed gases  
22 are stored under pressure in cylinders of various capacities.

23 4. EPA has reason to believe that in 1985, Respondent  
24 determined that an estimated 193 cylinders containing various  
25 compressed gases were no longer useable due to the age of the  
26 material and/or the cylinders' integrity.

27 5. Respondent notified EPA pursuant to Title 40 C.F.R.  
28 Section 262.50 that it intended to ship the 193 cylinders and

1 their contents to a disposal facility located in Costa Rica.

2 6. On June 14, 1985, Respondent engaged Industrial Waste  
3 Engineering to transport the cylinders to the Port of Long Beach  
4 for shipment via steamship to Costa Rica. Prior to transporta-  
5 tion, the cylinders were segregated according to hazard class  
6 and overpacked into 14 steel drums. The drums were shipped  
7 under Uniform Hazardous Waste Manifest No. 84334480.

8 7. Uniform Hazardous Waste Manifest No. 84334480 listed  
9 TRW, Inc. as the generator of the compressed gas cylinders,  
10 Industrial Waste Engineering and Katy Van Lines as the trans-  
11 porters, and Ecotherm International of Costa Rica as the disposal  
12 site. The manifest identified the waste material according to  
13 the standard Department of Transportation ("DOT") hazard class,  
14 "Waste Poisonous Gas N.O.S. (Poison A) NA1955".

15 8. EPA has reason to believe that the manifested shipment  
16 of 14 drums containing compressed gas cylinders was sent to San  
17 Jose, Costa Rica, but was not accepted or received by the disposal  
18 site operator, Ecotherm International. The drums and compressed  
19 gas cylinders were subsequently returned to the Port of Long  
20 Beach via steamship.

21 9. On August 25, 1985, the drums arrived at the Port of  
22 Long Beach and were detained by the U.S. Customs Service. The  
23 drums were placed in General Order at a Customs bonded warehouse.  
24 The bonded warehouse proprietor was subsequently advised by the  
25 Los Angeles Fire Department that the material was hazardous and  
26 should not remain in storage at the warehouse.

27 //

28 //

1 10. The U.S. Customs Service notified both TRW, Inc.,  
2 generator of the material, and Ecotherm, Ltd, the consignee, that  
3 the drums were being detained at the Port of Long Beach. EPA has  
4 reason to believe that the drums and compressed gas cylinders  
5 have been in storage at the bonded warehouse since August 1985.

6 11. The cylinders were inventoried by Respondent's  
7 contractor by chemical description, manufacturer of the cylinder,  
8 DOT hazard class, and visible condition of the cylinders. This  
9 inventory is attached hereto and incorporated by reference herein.

10 12. The inventory indicates that the cylinders contain  
11 materials which have been identified by their DOT hazard classes  
12 as follows:

13 Poison A  
14 Flammable Gas  
15 Nonflammable Gas  
16 Corrosive Material  
17 Poison B.

18 13. Poisonous materials, class A, are poisonous gases of  
19 such a nature that a very small amount of the gas mixed with air  
20 is dangerous to life. Some of the Poison A materials listed in  
21 the attached inventory are:

22 Cyanogen  
23 Nitric Oxide  
24 Nitrogen Dioxide.

25 14. Most of the materials listed in the inventory of the  
26 cylinders are hazardous substances under CERCLA. In addition,  
27 many of these gases have recently been designated by EPA as  
28 "Acutely Toxic Chemicals". EPA, Chemical Emergency Preparedness  
Program - Interim Guidance (November 1985).  
Endangerment

The current storage of 193 compressed gas cylinders at the

1 Cresent Warehouse poses an imminent and substantial endangerment  
2 to public health and safety.

3 Population at Risk: Persons working at the warehouse,  
4 neighboring businesses and residences would be at risk in  
5 the event of an accident resulting in a catastrophic release  
6 of the hazardous gases.

7 Exposure Risk: A release of poison A gases to the atmosphere  
8 in small quantities could be life-threatening. A release of  
9 flammable gases would present a risk of fire and/or explosion to  
10 the warehouse and surrounding structures. Corrosive gases are  
11 irritating to the eyes and respiratory tract if inhaled, and, in  
12 high concentrations, asphyxiating.

#### 13 CONCLUSIONS OF LAW

14 1. Respondent is a "person" as defined in Section 101(21)  
15 of CERCLA, 42 U.S.C. §9601(21).

16 2. The cylinders owned by Respondent are a "facility" as  
17 defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

18 3. Respondent is also a generator, who by contract, agree-  
19 ment or otherwise arranged for disposal of hazardous substances,  
20 and is a responsible party as defined in Section 107(a)(3) of  
21 CERCLA, 42 U.S.C. §9607(a)(3).

22 4. Wastes generated by Respondent include "hazardous  
23 substances" as defined in Section 101(14) of CERCLA, 42 U.S.C.  
24 §9601(14) and 40 C.F.R. Part 302.

25 //

26 //

27 //

28 //

1 DETERMINATIONS

2 Based upon the foregoing Findings of Fact and Conclusions of  
3 Law, the Director, Toxics and Waste Management Division, EPA  
4 Region IX has made the following determinations:

5 1. The release and threatened release of hazardous substances  
6 generated by Respondent may present an imminent and substantial  
7 endangerment to public health and welfare and the environment.

8 2. In order to prevent or mitigate immediate and signifi-  
9 cant risk of harm to human life, health and to the environment,  
10 it is necessary that immediate removal action be taken to contain  
11 and terminate the release and preclude the potential release of  
12 hazardous substances from the cylinders and/or drums.

13 3. The response measures ordered herein are consistent  
14 with the National Contingency Plan, 40 C.F.R. Part 300.

15 4. Respondent is a generator responsible for conducting  
16 the actions ordered herein, which are necessary to protect human  
17 health and the environment.

18 ORDER

19 Based upon the foregoing Findings of Fact, Conclusions of  
20 Law and Determinations, Respondent is hereby ordered and directed  
21 to take following measures:

22 Transportation Requirements

23 1. Respondent shall transport the 193 cylinders to its  
24 Redondo Beach plant by 6:00 a.m. March 1, 1986.

25 2. Transportation shall take place in accordance with all  
26 applicable Federal, State and local laws and shall be done in a  
27 responsible and safe manner.

28 //

1     Storage Requirements

2             3. Respondent shall take immediate steps to locate the  
3     drums in storage area at its Redondo Beach plant. The drums  
4     shall be stored in accordance with the standards set forth  
5     in Title 40 C.F.R. Part 262.

6             4. Within five (5) days of the date of this Order,  
7     Respondent shall submit to EPA a written plan for storing the  
8     drums at its Redondo Beach plant until a suitable treatment  
9     and/or disposal method is approved by EPA in accordance with the  
10    provisions of this Order.

11    Treatment/Disposal Requirements

12            5. Within fourteen (14) days of the date of this Order,  
13    Respondent shall submit to EPA a written proposal for the safe  
14    treatment and/or disposal of all of the cylinders in question.  
15    The treatment/disposal plan shall include an implementation  
16    schedule.

17            6. Within two (2) days of EPA approval of a treatment/  
18    disposal plan, Respondent shall begin implementation of the plan.  
19    Respondent shall fully implement the treatment/disposal plan  
20    as approved by EPA and within the time period set forth in the  
21    plan.

22    Reporting Requirements

23            7. Within thirty (30) days of completion of the activities  
24    outlined above, Respondent shall submit to EPA a report describing  
25    the storage and treatment/disposal of cylinders identified by  
26    this Order.

27    //

28    //



1 Respondent is further ordered as follows:

2 COMPLIANCE WITH APPLICABLE LAWS

3 6. In carrying out the terms of this Order, Respondent shall  
4 comply with all federal, state and local laws and regulations.  
5 Respondents shall also obtain all required state and local  
6 permits.

7 ACCESS

8 7. Employees and authorized representatives of EPA and the  
9 State of California shall be granted access to the TRW plant  
10 for the purpose of verifying compliance with the terms of this  
11 Order.

12 ON-SCENE COORDINATOR

13 8. EPA shall appoint an On-Scene Coordinator (OSC) who shall  
14 have authority to be on-site at all times when response work is  
15 being undertaken pursuant to this Order. The OSC shall have at  
16 least the authority to: (1) observe, take photographs and make  
17 other report on the progress of the work as the OSC deems  
18 appropriate, and (2) review records, files and documents relevant  
19 to the Order. The OSC shall have the authority vested in the  
20 "On-Scene Coordinator" by 40 C.R.F. Part 300, et seq., published  
21 at 42 Fed. Reg. 31180 (July 16, 1982).

22 GOVERNMENT LIABILITIES

23 9. The United States Government shall not be liable for any  
24 injuries or damages to persons or property resulting from the  
25 acts or omissions of the Respondent, its employees, agents or  
26 contractors in carrying out activities pursuant to this Order,  
27 nor shall the Federal Government be held as a party to any contract  
28 entered into by the Respondents, or its agents in carrying out

1 activities pursuant to this Order.

2 PENALTIES FOR NONCOMPLIANCE

3 10. A willful violation or failure or refusal to comply  
4 with this Order, or any portion thereof, may subject you to a  
5 civil penalty of not more than \$5,000 for each day in which a  
6 violation occurs or such failure to comply continues, pursuant  
7 to the provisions of Section 106(b) of CERCLA, 42 U.S.C. §9060(b).  
8 Failure to comply with this Order, without sufficient cause,  
9 may also subject you to punitive damages in an amount up to  
10 three times the total of all costs incurred by the Government as  
11 a result of your failure to take proper action, pursuant to the  
12 provisions of Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3).

13 11. EPA may take over the removal action at any time if EPA  
14 determines that Respondent is not taking appropriate action  
15 to mitigate the site hazard. In the event EPA assumes responsi-  
16 bility for the removal action, Respondent shall be liable for  
17 all costs incurred by EPA to mitigate the site hazard. EPA may  
18 order additional removal or remedial actions deemed necessary by  
19 EPA to protect the public health and welfare or the environment.

20 OPPORTUNITY TO CONFER

21 12. You may request a conference with the Director, Toxics  
22 and Waste Management Division, EPA Region IX or his staff to  
23 discuss the provisions of this Order. At any conference held  
24 pursuant to your request, you may appear in person or by counsel  
25 or other representatives for the purpose of presenting any  
26 objections, defenses or contentions which you may have regarding  
27 this Order. If you desire such a conference, you must make such  
28 a request orally within 24 hours of receipt of this Order, to be

1 immediately confirmed in a written request. Please make any  
2 such request to:

3 Lisa A. Haage  
4 Assistant Regional Counsel  
5 Environmental Protection Agency  
6 215 Fremont Street  
7 San Francisco, California 94105  
8 (415) 974-8043

7 PARTIES BOUND

8 13. This Order shall apply to and be binding upon the  
9 Respondent, its officers, directors, agents, employees, contrac-  
10 tors, successors and assigns.

11 NOTICE OF INTENT TO COMPLY

12 14. Immediately upon receipt of this Order, Respondent  
13 shall orally inform EPA of its intent to comply with the terms  
14 of this Order. This shall be confirmed in writing within two  
15 (2) days of receipt of this Order.

16 ENDANGERMENT DURING IMPLEMENTATION

17 15. In the event that the Regional Administrator of EPA,  
18 Region IX determines that any activities (whether pursued in  
19 implementation of or in noncompliance with this Order) or circum-  
20 stances may be creating an imminent and substantial endangerment  
21 to the health and welfare of the people on the site or in the  
22 surrounding area or to the environment, the Regional Admini-  
23 strator of EPA, Region IX, may order Respondents to halt the  
24 implementation of this Order for such period of time as is  
25 needed to abate the endangerment.

26 //

27 //

28 //

EFFECTIVE DATE

16. Notwithstanding any conferences requested pursuant to the provisions of this Order, this Order is effective upon receipt, and all times for performance shall be calculated from that date.

It is so ordered on this 28 day of February, 1986.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: 

HARRY SERAYDARIAN  
DIRECTOR, TOXICS & WASTE MANAGEMENT DIVISION  
EPA, REGION IX

Contact Persons:

Matthew Monsees  
Field Operations Branch (T-3-3)  
U.S. Environmental Protection Agency  
215 Fremont Street  
San Francisco, California 94105  
(415) 974-8133

Betsy Curnow  
Superfund Programs Branch (T-4-4)  
U.S. Environmental Protection Agency  
215 Fremont Street  
San Francisco, California 94105  
(415) 974-7523

Lisa A. Haage  
Assistant Regional Counsel (ORC)  
U.S. Environmental Protection Agency  
215 Fremont Street  
San Francisco, California 94105  
(415) 974-8043